

# **COMPLIANCE AUDIT REPORT**

## **STATE OF MAINE WORKERS' COMPENSATION BOARD**



**Northern General Services  
April 14, 2003**

### **Monitoring, Audit & Enforcement (MAE) Division**

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## SUMMARY

The Audit Division of the Maine Workers' Compensation Board (WCB) examined 100 claim files for the period under examination (2001) to determine compliance with statutory and regulatory requirements in the following areas:

- Form filing
- Timeliness of indemnity payments
- Accuracy of indemnity payments

Our audit revealed:

Northern General Services (NGS) is a third party administrator for self-insured companies for workers' compensation coverage.

- Of the 100 claim files audited, there were 35 "lost time" claims, 57 "medical only" claims and 8 "incident only" claims.
- The 35 "lost time" claims sort out as follows:
  - Ten compensable claims were paid the initial indemnity benefit timely, which is in compliance with Title 39-A, M.R.S.A. section 205.
    - Ninety-one of the subsequent payments, on the compensated claims, were paid within the seven-day requirement, which is in compliance with Title 39-A, M.R.S.A. section 205.
    - Eleven subsequent payments, on the compensated claims, were not paid timely which is not in compliance with Title 39-A, M.R.S.A. section 205.

Title 39-A, M.R.S.A. section 205 (2) provides the requirements for benefit payment.

- Of the 10 compensated claims an overpayment of \$153.82 in aggregate was discovered.
  - Five of the compensated claims were paid correctly which is in compliance with Title 39-A, M.R.S.A, section 212 and/or 213.
  - Five of the compensated claims appear not paid correctly, which is not in compliance with Title 39-A, M.R.S.A, section 212 and/or 213.

The following is a brief description of the appearance of non-compliance.

- One claim's overpayment appears to be due to miscalculation of earnings resulting in the wrong weekly compensation rate.
- One claim's overpayment appears to be due to calculation error.
- One claim's underpayment appears to be due to miscalculation of earnings resulting in the wrong weekly compensation rate.

- One claim's underpayment appears to be due to data entry keying error.
- One claim's underpayment appears to be due to miscalculation of partial benefits. Title 39-A, M.R.S.A does not provide for a reduction due to the number of days on partial. Refer to Forms Manual B-1.

Title 39-A, M.R.S.A section 212 and 213 provides requirements for compensation for total incapacity and partial incapacity.

- Fifteen claims had a Notice of Controversy (WCB-9) filed timely, which is in compliance with Rule 1 section 1(C).
  - One disputed claim had the dispute resolved before the audit resulting in the initial indemnity payment being paid timely which is in compliance with Title 39-A, M.R.S.A section 205. (This claim is also included in the 10 compensable claims category).

The Rules and Regulations are sent forth pursuant to Title 39-A, M.R.S.A. Rule 1.1 provides the requirements for payment of benefits.

- Eleven claims were non-compensable lost time claims.
  - Eight non-compensable lost time claims' Employer's First Report of Occupational Injury or Disease (WCB-1) were filed timely which is in compliance with Title 39-A, M.R.S.A, section 303.
  - Three non-compensable lost time claims' (WCB-1) were filed late with the WCB, which is not in compliance with Title 39-A, M.R.S.A, section 303. This problem has been resolved between the self-insured employer and NGS.

Title 39-A, M.R.S.A section 303 provides the requirements for reports to board.

- The initial indemnity payment benefit compliance rate of 100 percent, which exceeds the WCB performance benchmark, which is at 80 percent.
- The subsequent payment of benefits compliance rate is 92.86 percent.
- The accuracy of average weekly wage and weekly benefit rate compliance rates are at 85.71 and 81.82 percent respectively.
- The First Report (WCB-1) filing compliance was 93.26 percent. NGS did not achieve 100 percent due to filing violations committed by one of its self-insureds. NGS has confronted the issue of an effective method of obtaining the information necessary from their employers to be able to file these forms more timely.
- A significant form filing compliance problem appears to be in the filing of the Wage Statement (WCB-2) and Schedule of Dependent(s) and Filing Status Statement (WCB-2A). The compliance rates for these forms filed timely are 55 and 50 percent respectively. The requirements for filing

these two forms are found in Title 39-A, M.R.S.A section 303. In 9 out of 11 cases where there was non-compliance, NGS timely requested wage information from its self-insured but did not receive necessary information within the required time frame. NGS has confronted the issue of receiving these forms timely from their self-insured clients and are working to resolve the problem.

- The Memorandum of Payment (WCB-3) compliance rate is at 100 percent, which exceeds the Workers Compensation Boards' performance benchmark of 75 percent.
- The Modification (WCB-4), Notice of Controversy (WCB-9) and Statement of Compensation Paid (WCB-11) compliance rates are all at 100 percent. WCB has no performance benchmark set for these form's compliance rates.

The Audit Division would like to thank Northern General Services and it's staff for the use of their facilities and providing the audit staff the necessary materials needed to complete the audit in a proficient manner. NGS have graciously complied with all the requests from this Division. The auditor was impressed with Northern Generals Services understanding of form completion and their timely payment of indemnity benefits.

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<sup>1</sup> "Incident only" Claims incur no medical expenses and less than a day of lost time.

## **PENALTIES**

### **♦ Penalties Allowed by Law (Payable to the Workers' Compensation Board)**

39-A M.R.S.A. Sec. 359(2)

“In addition to any other penalty assessment permitted under this Act, the board may assess civil penalties not to exceed \$10,000 upon finding, after hearing, that an employer, insurer or 3<sup>rd</sup>-party administrator for an employer has engaged in a pattern of questionable claims-handling techniques or repeated unreasonably contested claims. The board shall certify its findings to the Superintendent of Insurance, who shall take appropriate action so as to bring any such practices to a halt. This certification by the board is exempt from the provisions of the Maine Administrative Procedure Act.”

39-A M.R.S.A. Sec. 360(1)(A)

“The board may assess a civil penalty not to exceed \$100 for each violation on any person: Who fails to file or complete any report or form required by this Act or rules adopted under this Act;”

- Two (2) forms not filed (\$200.00).

39-A M.R.S.A. Sec. 360(1)(B)

“The board may assess a civil penalty not to exceed \$100 for each violation on any person: Who fails to file or complete such a report or form within the time limits specified in this Act or rules adopted under this Act.”

- Twenty (20) forms filed late (\$2,000.00).

39-A M.R.S.A. Sec. 360(2)

“The board may assess, after hearing, a civil penalty in an amount not to exceed \$1,000 for an individual and \$10,000 for a corporation, partnership or other legal entity for any willful violation of this Act, fraud or intentional misrepresentation. The board may also require that person to repay any compensation received through a violation of this act, fraud or intentional misrepresentation or to pay any compensation withheld through a violation of this Act, fraud or misrepresentation, with interest at the rate of 10% per year.

## INDEMNITY BENEFITS

### A. Prompt Initial Payment of Benefits

			2001	
			Number	Percent
Check Mailed Within:				
0-14	Days	<b>Compliant</b>	9	100.00%
Total Due			9	100.00%

### B. Prompt Subsequent Payment of Benefits

			2001	
			Number	Percent
Check Mailed Within:				
0-7	Days	<b>Compliant</b>	91	89.22%
8-14	Days		9	8.82%
15 +	Days		2	1.96%
Total Due			102	100.00%

### C. Accuracy of Average Weekly Wage

			2001	
			Number	Percent
Calculated: 14				
Correct		<b>Compliant</b>	12	85.71%
Incorrect			2	14.29%
Total			14	100.00%

### D. Accuracy of Weekly Benefit Rate

			2001	
			Number	Percent
Calculated: 11				
Correct		<b>Compliant</b>	9	81.82%
Incorrect			2	18.18%
Total			11	100.00%

## FORM FILING

### A. First Report (WCB-1)

		2001	
		Number	Percent
Filed	<b>Compliant</b>	44	93.62%
Filed Late		3	6.38%
Total		47	100.00%

### B. Wage Statement (WCB-2)

		2001	
		Number	Percent
Filed	<b>Compliant</b>	11	55.00%
Filed Late		8	40.00%
Not Filed		1	5.00%
Total		20	100.00%

### C. Schedule of Dependent(s) and Filing Status Statement (WCB-2A)

		2001	
		Number	Percent
Filed	<b>Compliant</b>	10	50.00%
Filed Late		9	45.00%
Not Filed		1	5.00%
Total		20	100.00%

### D. Memorandum of Payment (WCB-3)

		2001	
		Number	Percent
Filed	<b>Compliant</b>	10	100.00%
Filed Late		0	.00%
Total		10	100.00%



## FORM FILING (Continued)

### E. Discontinuance or Modification (WCB-4)

		2001	
		Number	Percent
Filed	<b>Compliant</b>	10	100.00%
Not Filed		0	.00%
Total		10	100.00%

### F. Notice of Controversy (WCB-9)

		2001	
		Number	Percent
Filed	<b>Compliant</b>	28	100.00%
Filed Late		0	.00%
Total		28	100.00%

### G. Statement of Compensation Paid (WCB-11)

		2001	
		Number	Percent
Filed	<b>Compliant</b>	10	100.00%
Filed Late		0	.00%
Total		10	100.00%